

## OCCUPATIONAL CODE (EXCERPT)

### Act 299 of 1980

#### ARTICLE 18

##### **339.1801 Definitions.**

Sec. 1801. As used in this article:

(a) "Funeral establishment" means a place of business used in the care and preparation for burial or transportation of a dead human body or a place where a person represents that the person is engaged in the profession of undertaking or the practice of mortuary science.

(b) "Holder of a license for the practice of mortuary science" means a person who satisfactorily completes a course in mortuary science, who passes an examination prescribed in this article, serves the required resident training, and is issued a license for the practice of mortuary science.

(c) "Practice of embalming" means the disinfecting or preserving of a dead human body, entirely or in part, by the use of a chemical substance, fluid, or gas in the body or by the introduction of the chemical substance, fluid, or gas into the body by a vascular or hypodermic injection, or by direct application into an organ or cavity.

(d) "Practice of funeral directing" means engaging in or representing oneself as engaging in the supervising of the burial and disposal of a dead human body; maintaining a funeral establishment for the preparation, disposition, and care of a dead human body; or using, in connection with the user's name or funeral establishment, the word "funeral director", "funeral service professional", "undertaker", or "mortician", or any other title embodying the words "mortuary science" or otherwise implying that one is engaged as a funeral director.

(e) "Practice of mortuary science" means the practice of embalming or the practice of funeral directing, or both.

(f) "Resident trainee" means a person who is engaged in learning the practice of embalming or funeral directing or the practice of mortuary science under the instruction and personal supervision of a holder of a license for the practice of mortuary science in this state.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2006, Act 300, Imd. Eff. July 20, 2006.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

**Popular name:** Act 299

##### **339.1802 Board of examiners in mortuary science; creation.**

Sec. 1802. The board of examiners in mortuary science is created.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299

##### **339.1803 Placing chemical on or in dead human body by unlicensed person as violation; article inapplicable to resident trainee; license required for practice of embalming.**

Sec. 1803. The placing of a chemical on or in a dead human body by a person who is not the holder of a license for the practice of mortuary science is a violation of this article. This article shall not apply to a resident trainee working under the supervision of a holder of a license for the practice of mortuary science. A person who is engaged in the practice of embalming, or who professes to be engaged in that practice, or who represents that the person is an embalmer shall be the holder of a license for the practice of mortuary science.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299

##### **339.1804 Funeral establishment; individuals required to be license holder for practice of mortuary science; use of name after death or retirement of member.**

Sec. 1804. (1) An individual whose name appears in connection with that of a funeral establishment shall be considered as actively engaged in the practice of funeral directing or the practice of mortuary science and shall be the holder of a license for the practice of mortuary science. If a funeral establishment is a corporation or partnership, each active member of the corporation or partnership, together with each individual whose name appears or is used in connection with the name of the corporation or partnership, shall be the holder of a license for the practice of mortuary science.

(2) This article shall not prevent a funeral establishment from using or continuing to use an otherwise lawful corporate or partnership name after the death or retirement of a member if each active member or

employee is properly licensed under this article.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299

### **339.1805 Authorized activities of licensee.**

Sec. 1805. A person licensed under this article may disinfect or preserve a dead human body, entirely or in part, by the use of a chemical substance, fluid, or gas in the body of by the introduction of a chemical, substance, fluid, or gas into the body by a vascular or hypodermic injection, or by direct application into an organ or cavity in preparation for burial or disposal. The person may direct the burial or disposal of a dead human body and may maintain a funeral establishment for the preparation and disposition, or for the care of a dead human body and may, in connection with the person's name or the name of the funeral establishment use the words "funeral director", "undertaker", "mortician", "mortuary science", or a word of similar meaning as approved by the department.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299

### **339.1806 Practice of mortuary science; license; requirements; inspection; revocation or cancellation of license; reporting change in ownership or location; reciprocity.**

Sec. 1806. (1) The department shall issue a license to engage in the practice of mortuary science to an individual who meets all of the following:

- (a) Subject to subsection (2), served as a resident trainee for 1 year under the personal supervision and instruction of the holder of a license for the practice of mortuary science.
- (b) Graduated from a 3-year course in mortuary science in an accredited school, college, or university.
- (c) Subject to subsection (2), satisfactorily passes an examination approved by the department and the board.
- (d) Is of good moral character.

(2) An applicant may take the examination described in subsection (1)(c) in 2 parts, 1 part after the completion of the prescribed education and 1 part after the completion of the prescribed education and the service of resident training. The department may waive a portion of the requirement under subsection (1)(a) of 1 year of resident training if the applicant has a baccalaureate degree from an accredited school, college, or university, and the department determines that the degree is a satisfactory substitute for the resident training.

(3) A person may only engage in the practice of mortuary science at a fixed location. A person shall not open or maintain a place for practice, or hold itself out as engaging in the practice of mortuary science, without an establishment license issued by the department. An establishment license under this subsection is issued for a specific location only. The holder of a license for the practice of mortuary science may conduct a funeral in another licensed funeral establishment; at a church, home, public hall, lodge room, or other fixed place; or at another establishment that is owned by the person and that meets the requirements of section 1809.

(4) The department shall not issue or renew an establishment license under subsection (3) unless the applicant certifies that 1 of the following is met at the time of application:

(a) The applicant, or a person that has a controlling interest in, or that is under common ownership with, the applicant, is registered with the department under section 6 of the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.216.

(b) The applicant has a contract with a registrant under which the registrant sells, provides, or agrees to sell or provide merchandise, funeral services, or cemetery services under a prepaid contract on behalf of the funeral establishment. As used in this subdivision and subsection (5), "cemetery services", "funeral services", "merchandise", "prepaid contract", "provider", and "registrant" mean those terms as defined in the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(5) If an establishment license is canceled under subsection (7) because of a change of ownership of the funeral establishment, the department shall not grant a new license for that establishment unless the applicant assumes the obligations of any unperformed prepaid contracts in which the former establishment was designated as the provider under section 11(1) of the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.221, or certifies that the unperformed prepaid contracts have been assigned to another funeral establishment or to a person that has a contract with a funeral establishment that has agreed to act as the provider.

(6) The department may inspect a funeral establishment or a branch of a funeral establishment, and the funeral establishment or branch must meet the requirements of section 1809 and any other standards and requirements established by rule of the department under this act. The department may revoke a license for a

failure to meet any of these requirements under the procedure set forth in this article.

(7) A change in the ownership or location of the funeral establishment automatically cancels its license. A licensee shall immediately report a change in ownership or location to the department.

(8) The department shall issue a mortuary science license to an individual who holds a valid license in another state that has substantially equal requirements to the requirements under this article if he or she meets all of the following:

(a) Applies for a license to practice in this state.

(b) Files with the department a certified statement from the examining board of the state in which the applicant holds a license that shows the basis on which the license was granted, and whether that board has suspended, revoked, or limited that license.

(c) Passes an examination approved by the department and the board that tests the individual's knowledge of law relating to the practice of mortuary science in Michigan.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2013, Act 80, Eff. Sept. 26, 2013.

**Popular name:** Act 299

**Administrative rules:** R 339.18901 et seq. of the Michigan Administrative Code.

### **339.1806a Practice of mortuary science; issuance of courtesy license; requirements; validity; conduct; prohibitions; restrictions; "courtesy license" defined.**

Sec. 1806a. (1) The department may issue a courtesy license to engage in the practice of mortuary science to an individual if the department determines that all of the following are met:

(a) The individual holds a valid license to practice mortuary science, funeral directing, or another occupation that is the equivalent of the practice of mortuary science or funeral directing, issued by the state of Indiana, Ohio, or Wisconsin.

(b) The state that issued the license described in subdivision (a) by law provides individuals licensed under this article substantially the same opportunity to practice in that state as its licensees are authorized to practice in this state under this section.

(2) A courtesy license is valid for 2 years, beginning on the date it is issued or renewed.

(3) An individual who holds a courtesy license may do any of the following:

(a) Remove a dead human body from the place of death in this state.

(b) Register with a local registrar under section 1807.

(c) Subject to section 1807, transport a dead human body to or from the state in which he or she is licensed.

(d) Subject to section 1807, supervise the final disposition in this state of the human body of an individual who died in the state in which he or she is licensed.

(4) An individual who holds only a courtesy license shall not do any of the following in this state:

(a) Operate a funeral establishment.

(b) Engage in the practice of embalming.

(c) Advertise mortuary science, funeral directing, or cremation services.

(d) Directly or indirectly own, manage, operate, maintain, or be employed by a cemetery or crematory or engage in any similar activity for which registration is required under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543.

(e) Violate section 1810.

(5) The department shall ensure that a courtesy license is issued with the restrictions described in this section.

(6) As used in this section, "courtesy license" means a license issued under this article to an individual described in subsection (1) that is subject to the restrictions described in this section.

**History:** Add. 2013, Act 77, Eff. Sept. 26, 2013.

**Popular name:** Act 299

### **339.1807 Holder of license for practice of mortuary science; registration with city or village registrar; transportation permit; receiving dead body for shipment or transportation; removal or shipping permit; shipping dead human body for anatomical purpose.**

Sec. 1807. (1) The holder of a license for the practice of mortuary science shall register with the office of the registrar of each city or village in which the owner intends to practice. A transportation permit shall not be issued by the local registrar to a person who has not filed a registration card. A local registrar may grant a transportation permit to the holder of a license for the practice of mortuary science coming from beyond the jurisdiction of the registrar, upon the exhibition of a copy of the license to the registrar.

(2) A railway agent, express agent, baggage master, or conductor shall not receive the dead body of a person for shipment or transportation by railway or other public conveyance, to or from a point in this state or to a point outside of this state, unless the body is accompanied by a removal or shipping permit.

(3) This article shall not prevent the shipment of a dead human body intended for use for an anatomical purpose within this state if that body is designated by the shipper as intended for use for an anatomical purpose.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299

### **339.1808 Resident trainee; license; qualifications; service; notice; reports; statement; supervision.**

Sec. 1808. (1) The department shall issue a license as a resident trainee to an individual who is of good moral character and possesses a high school diploma or its equivalent. Resident training shall be served only under the sponsorship and in the licensed funeral establishment of the holder of a license for the practice of mortuary science. When a resident trainee enters the employ of a person licensed under this article, the trainee immediately shall notify the department of the name and place of business of the person whose service the trainee has entered. If a resident trainee leaves the employ of the person whose service the trainee has entered, the person shall file with the department a notice showing the length of time the trainee has served as a resident trainee. If the resident trainee enters the employ of another person licensed under this article, the trainee immediately shall report the employment to the department. Resident training may be served after satisfactory completion of an accredited school or college, or professional instruction prescribed by the department and the board.

(2) A resident trainee licensed as provided in this section shall be required to report to the department semiannually on January 15 and July 15 upon a form provided by the department, showing the work which the trainee completed during the 6 months preceding the first of the month in which the report is made. The data contained in the report shall be certified to as its correctness by the licensee under whom the trainee has served during that period.

(3) Before a resident trainee shall be eligible to engage in the practice of mortuary science, the trainee shall present, in connection with the other evidence required by this article, a statement from each holder of a license to practice mortuary science under whom the trainee has trained, showing that the trainee has embalmed for burial or shipment at least 25 dead human bodies, or has assisted the holder of a license for the practice of mortuary science in supervising the preparation of 25 dead human bodies for burial or transportation during the period of resident training. A resident trainee shall meet other training or requirements as may be required by rules of the department and the board.

(4) Not more than 1 resident trainee shall be supervised by a licensee. The supervisor for a trainee shall be actively connected with a funeral establishment.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1988, Act 463, Eff. Sept. 1, 1989

**Popular name:** Act 299

### **339.1809 Funeral establishment; operation by license holder; displaying name of licensee; registration of owner's name; revocation of license; operation of branch establishment; inspection of premises; preparation room and equipment; compliance.**

Sec. 1809. (1) A funeral establishment shall be operated by a person who is the holder of a license for the practice of mortuary science. The establishment shall have conspicuously displayed at its entrance the name of the person licensed to conduct the establishment. The name of the person owning the funeral establishment shall be registered with the department. Failure to make full and complete disclosure of the owners shall be grounds for the revocation of the establishment license.

(2) A person whose license has been revoked under this article shall not operate either directly or indirectly or hold an interest in a funeral establishment. This subsection shall not prohibit a person whose license has been revoked from leasing property owned by the person for use as a funeral establishment if the person does not participate in the control or profit of the funeral establishment otherwise than as a lessor of the premises for a fixed rental not dependent upon earnings.

(3) A branch establishment shall be operated by a person who is the holder of a license for the practice of mortuary science.

(4) The department and the board may inspect the premises in which funeral directing is conducted or where embalming is practiced or where an applicant proposes to practice.

(5) A funeral establishment shall contain a preparation room equipped with tile, cement, or composition

floor and necessary drainage and ventilation, and contain each necessary instrument or supply for the preparation and embalming of a dead human body for burial, transportation, or other disposition.

(6) A branch establishment shall comply with each requirement or rule relating to a funeral establishment.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299

### **339.1809a Disposition of unclaimed cremated remains; immunity from liability; definitions.**

Sec. 1809a. (1) A person licensed in the practice of mortuary science is immune from civil liability for the proper disposition of unclaimed cremated remains if the proper disposition was made 6 months or longer after the date of cremation and at least 30 days after the date the notice required under this subsection is sent. A funeral director claiming immunity under this section shall make reasonable efforts to provide written notice of intent to make proper disposition of the unclaimed cremated remains to the persons having the right to make decisions relating to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. Reasonable efforts include, but are not limited to, mailing the notice to the last known address of that person. If unclaimed cremated remains are removed from or transferred to a cemetery, the mortuary science licensee shall present a written statement to the cemetery certifying compliance with the requirements imposed in this subsection at the time the unclaimed cremated remains are removed or presented for proper disposition.

(2) In the case of unclaimed cremated remains determined to belong to a veteran, a cemetery relying upon a written statement presented by a person licensed in the practice of mortuary science under subsection (1) is immune from civil liability against a claim for damages by the persons having the right to make decisions related to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, for having interred, entombed, or inurned cremated remains without their authorization.

(3) This section does not supersede the provisions of section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, involving the priority of persons having the right to make decisions relating to the disposition of a decedent's body under that section except that if those persons having the right to make decisions related to the disposition of a decedent's body claim the cremated remains after proper disposition under subsection (1), then any costs associated with disinterring or removing the cremated remains from the place of interment, entombment, or inurnment, and other costs associated with their further placement shall be borne by those persons, unless otherwise agreed.

(4) As used in this section:

(a) "Proper disposition" means interment, entombment, or inurnment of unclaimed cremated remains in a cemetery in this state. In the case of the unclaimed cremated remains of a veteran of the United States armed forces, proper disposition includes the interment, entombment, or inurnment in a cemetery designated solely for veterans by the United States department of veterans affairs or by the Michigan department of veterans affairs.

(b) "Unclaimed cremated remains" means the cremated remains of a dead human body that has not been picked up or delivered to a person having the right to make decisions relating to the disposition of a decedent's body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

**History:** Add. 2009, Act 149, Eff. July 1, 2010.

**Popular name:** Act 299

### **339.1809b Determination of unclaimed cremated remains as veteran; disposition; immunity from liability.**

Sec. 1809b. (1) A person licensed in the practice of mortuary science may compile a list of names of the unclaimed cremated remains held in his or her possession for 6 months or more for the purposes of determining whether 1 or more of the deceased is a veteran of the United States armed services.

(2) The funeral director may release the list of names to any federally chartered veterans service organization to confirm with the national cemetery administration's central scheduling office in St. Louis, Missouri, whether the deceased is eligible for proper disposition at a veterans cemetery. The veterans service organization shall report to the funeral director regarding the names of the confirmed veterans or spouses of veterans.

(3) If the unclaimed cremated remains are determined to be eligible for proper disposition at a veterans cemetery, the funeral director shall send written notice of intent to make a proper disposition of the unclaimed remains as described under section 1809a(1). If the unclaimed cremated remains of a confirmed veteran are not claimed by the persons to whom the notice was sent, the funeral director may arrange for the proper



disposition of the remains with a state or national veterans cemetery.

(4) A funeral director complying with this section is immune from criminal or civil liability arising from compliance with this section.

**History:** Add. 2009, Act 148, Eff. May 20, 2010.

**Compiler's note:** This section, as added by Act 148 of 2009, was effective July 1, 2010. Acts 76 and 78 of 2010 amended Act 148 of 2009 by revising the effective date. This section then became effective May 20, 2010.

**Popular name:** Act 299

### **339.1810 Prohibited conduct; penalties; rules; training employees.**

Sec. 1810. (1) A person shall be subject to the penalties of article 6 if the person commits 1 of the following:

(a) Solicitation of a dead human body by a licensed person or an agent, assistant, representative, employee, or person acting on behalf and with the knowledge and consent, express or implied, of the licensed person, whether the solicitation occurs after death or while death is impending; or the procuring or allowing directly or indirectly of a person to call upon an institution or individual by whose influence a dead human body may be turned over to the licensed person or funeral establishment.

(b) Procuring a person known as capper, steerer, or solicitor to obtain funeral directing or embalming; or allowing or permitting a capper, steerer, or solicitor to obtain funeral directing or embalming for a licensed person or funeral establishment.

(c) The direct or indirect payment or offer of payment of a commission by a licensed person or an agent, representative, assistant, or employee of the licensed person for the purpose of securing business.

(d) Aiding or abetting an unlicensed person to engage in the practice of funeral directing or embalming.

(e) Using profane, indecent, or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of.

(f) Solicitation or acceptance by a licensed person of a commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in a crematory, mausoleum, or cemetery.

(g) Using a casket or part of a casket which has been previously used as a receptacle for, or in connection with, the burial or other disposition of a dead human body.

(h) A violation of a state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of a dead human body.

(i) Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody.

(j) Failure to secure a permit for removal or burial of a dead human body before interment or disposal.

(k) Obtaining possession or embalming a dead human body without first being expressly directed or authorized to do so by a relative of the deceased person or a person entitled to custody.

(l) Knowingly making a false statement on a certificate of death.

(m) Removing or embalming a dead human body if there is information indicating crime or violence in connection with the cause of death, unless permission of the county medical examiner has first been obtained.

(n) If a public officer or employee, an official of a public institution, convalescent home, private nursing home, maternity home, public or private hospital, physician or surgeon, or any other person having a professional relationship with a decedent or county medical examiner or other public official having temporary custody of the decedent, sending or causing to be sent to a person or establishment licensed under this article the remains of a deceased person without having first made inquiry as to the desires of the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, and of the person who may be chargeable with the funeral expenses of the decedent. If a person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, is found, the person's authority and directions shall govern the disposal of the remains of the decedent.

(o) If a licensee, receiving remains in violation of the requirements of subdivision (n) and making a charge for a service in connection with the remains before the delivery of the remains as stipulated by the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. This subdivision shall not prevent a person or establishment licensed under this article from charging and being reimbursed for services rendered in connection with the removal of the remains of a deceased person in case of accidental or violent death, and rendering necessary services required until the person with authority over the disposal of the remains of the decedent under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, or the person who is chargeable with the funeral expenses is notified.

(p) If a funeral establishment or a licensee, entering upon an agreement, directly or indirectly, in which the practice of embalming or funeral directing is to be rendered in consideration for the funeral establishment, licensed person or an agent, assistant, or representative of the establishment or licensed person, being designated as beneficiary in an insurance policy or certificate. This subdivision does not govern or limit the authority of a personal representative, trustee, or other person who has a fiduciary relationship with the deceased.

(q) Failure to comply with part 138 of the public health code, 1978 PA 368, MCL 333.13801 to 333.13831.

(2) The department, in consultation with the director of public health, shall promulgate rules to prescribe training standards for licensees and nonlicensees who handle medical waste in a funeral establishment.

(3) A licensee who owns or operates a funeral establishment shall train his or her employees pursuant to the rules promulgated under subsection (2).

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1990, Act 15, Eff. May 28, 1990;—Am. 2006, Act 300, Imd. Eff. July 20, 2006.

**Popular name:** Act 299

### **339.1811 Purchase of vault or similar receptacle as condition to burial prohibited; discrimination; right to require vault not impaired.**

Sec. 1811. (1) The purchase of a vault or similar receptacle designed or intended to enclose or receive a casket, coffin, or other similar container from a particular individual, partnership, association, or corporation shall not be required as a condition to burial in a cemetery in this state. There shall not be a discrimination by price, burial fee, or otherwise by reason of a failure to purchase the vault or similar receptacle from or under the direction of the cemetery or the owner of the cemetery.

(2) This section shall not limit the right of a cemetery to require the use of a vault in a burial in the cemetery.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299

### **339.1812 Owning or conducting cemetery or burial ground and owning or maintaining funeral establishment prohibited; exception; owning or conducting funeral establishment on property owned or leased by cemetery prohibited; owner of private burial ground owning or maintaining funeral establishment.**

Sec. 1812. (1) An individual, partnership, association, municipal corporation, body politic, or corporation which owns or conducts, either directly or indirectly, a cemetery or burial ground in this state shall not own, manage, supervise, operate, or maintain, either directly or indirectly, a funeral establishment, or permit an officer, agent, or employee to own or maintain a funeral establishment. This subsection shall not apply to an elected official of a city, village, township, or county who serves as an ex officio member of a local cemetery board as a result of holding that office.

(2) An individual, partnership, association, municipal corporation, body politic, or corporation which owns or conducts a cemetery in this state shall not allow a funeral establishment to be owned or conducted on property owned or leased by the cemetery and used for cemetery purposes or designated as a cemetery.

(3) This section shall not prohibit the owner of a private burial ground used for the interment of the owner's family or the owner's descendants to own or maintain a funeral establishment under this article.

**History:** 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**Popular name:** Act 299